

IN THE HIGH COURT OF CHHATTISGARH,

BILASPUR

Cr.M.P. No. 183 / 2006

Single Bench

Applicant
(Accused)

Farida Bano 45 Yrs.,
w/o Iqbal Ahmed
Subhas Nagar,
PS Maudahapara,
Raipur (CG)

4925/06
14.11.06
Filed on
by Shri Rajesh Sharma
Advocate
R. D. R. (J)

VERSUS

Non-Applicant
(Complainant)

State of Chattisgarh
Through DM Raipur

Impugning Final Order in Criminal Revision No. 283/05 of I ASJ, Raipur dtd. 7/3/06 which confirmed OD 7/7/05 in Criminal Case No. 480/98 of the Court of JMFC Raipur (Presided by Shri Kartik Ram). Attached as A-1.

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>28-02-2006</u> Shri Raja Sharma, learned counsel for the petitioner. Shri G.K. Beriwal, Dy. Advocate General for the State. Heard on admission. This petition has been directed against the order dated 7.3.2006 passed in criminal revision No. 283/2005 by the First Additional Sessions Judge, Raipur by which he has dismissed the aforesaid revision and has confirmed the order dated 7.7.2005 passed in Criminal Case No. 480/98 by the Judicial Magistrate First Class, Raipur. The facts are that on a complaint being made by the complainant wife (PW-1) namely Nishad Bano, a charge-sheet under Section 498-A of IPC and Section 5 of the Dowry Prohibition Act was filed against the husband Jamaluddin, and 3 other persons namely Kamaluddin, Fharida Bano and Babli were exonerated by the prosecution. On this, an application under Section 319 of Cr.P.C. was filed by the complainant praying that they should also be added as co-accused in this case. This application was kept in abeyance and the proceeding of the trial commenced. After examination of the prosecution witnesses namely Nishad Bano (PW-1) and Mohd. Washim (PW-2), the learned Magistrate considered this application and ultimately, on the basis of evidence recorded in the case, allowed the same and took cognizance against these persons by issuing summons, under Section 319 Cr.P.C. Being aggrieved with the aforesaid order passed by the Magistrate, the petitioner (one of the said co-	

P.T.O.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	accused) filed a criminal revision before the Sessions Court. The Sessions Court dismissed the said revision on 7.3.2006 and confirmed the order passed by the Magistrate. It is against this order the present petition has been filed. Learned counsel for the petitioner argues that the charge-sheet in the matter was filed in the year 1993 and the Magistrate has taken cognizance on 7.7.2005, therefore, there is unreasonable delay in taking such an action and the order passed by the Magistrate as well as the Sessions Court may be set aside. Section 319 of Cr.P.C. provides power to proceed against other persons appearing to be guilty of offence. Sub-section (1) provides that where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed. Sub-section (2) provides that where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid. Sub-sections (3) & (4) provide for other incidental proceedings. Needless to say that there is no limitation prescribed to proceed against other persons appearing to be guilty of an offence under Section 319 Cr.P.C. and the Court concerned has to take the action on the basis of evidence which comes in the course of enquiry or trial of an offence as the case may be.	

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश <i>3</i>	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	After going through the evidence of PW-1 and PW-2, it appears that there is sufficient material against this applicant to take recourse under Section 319 of Cr.P.C. There appears to be no illegality in the order passed by the Magistrate or by the concerned Sessions Judge while proceeding under Section 319 Cr.P.C. The petition has no merits and the same is dismissed at the motion stage itself.	Sd/- Sunil Kumar Sinha Judge

Tiwari/Vatti